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SUBJECT: SECURITY COUNCIL DIVIDED ON KOSOVO, BUT IS IT
BLOCKED?

REF: USUN 1204

11. (SBU) SUMMARY. In a December 19 UN Security Council session, Serbian PM Vojislav Kostunica called for open-ended negotiations on Kosovo's future political status, insisting that any other means of resolving the issue would violate UNSCR 1244 and the UN Charter. Kosovo President Sejdiu declared that Kosovo was not seeking an ethnically-based succession but the final chapter in the break-up of Yugoslavia. Ambassador Khalilzad characterized the Council as deadlocked about the way forward on Kosovo with no prospect of consensus unless Russia were to reconsider its rejection of the proposal of UN Special Envoy Ahtisaari. Supporting Serbia's call for continued talks, Russia circulated draft elements for a Security Council Presidential Statement on Kosovo calling for further negotiations and the development of a settlement "roadmap" to include benchmarks towards "Euro-integration" for both parties. Slovakia said further negotiations would be futile and cited UNSCR 1244 as an adequate basis for deployment of an EU rule-of-law mission, but added that a Kosovo declaration of independence without Security Council sanction would be problematic.

12. (SBU) SUMMARY CONTINUED. Several Council members spoke favorably of both the Ahtisaari proposal and the desirability of a negotiated settlement. UN Secretary-General Ban Ki-moon arrived at the session after Kostunica and Sejdiu had completed their presentations; he did not take the floor. Several representatives stepped outside to make national statements to the press during the session. EU members (UK, France, Belgium, Slovakia) joined the German PermRep and Ambassador Khalilzad in presenting a joint statement characterizing Belgrade-Pristina differences as irreconcilable and reiterating that the EU stands ready to play a leading role in Kosovo. The Security Council is scheduled to next consider Kosovo on January 8 when UNMIK provides its quarterly briefing. END SUMMARY.

ATMOSPHERICS

13. (SBU) When a majority of Security Council members insited on hearing the comments of Kosovo leadership about the U.S.-EU-Russia Troika report on Belgrade-Pristina negotiations on Kosovo's final status, Russia dropped its usual opposition to Kosovar participation. Fatmir Sejdiu, president of Kosovo's provisional institutions of self-government, was therefore invited, over the strong objection of the Government of Serbia, to address the Council in a personal capacity under rule 39 of the Council's provisional rules of procedure. Thirty-nine members of the UN General Assembly subscribed to observe the December 19 session. UN Undersecretaries of peacekeeping operations and

political affairs, Jean-Marie Guehenno and Lynn Pascoe respectively, also attended. UN Secretary-General Ban Ki-moon arrived in the Council after Serbia and Kosovo had completed their presentations; he did not take the floor. Italian Foreign Minister Massimo D'Alema chaired the session as holder of the Council presidency for December. Slovakian Foreign Minister Jan Kubis presented his country's intervention. The session was closed to the public and the media. President Sejdiu and Kosovo political leader Hashim Thaci arrived before the Serbian delegation and were seated in the audience section of the Council's formal hearing room when Prime Minister Kostunica and entourage entered. Although the Serbs exchanged pleasantries with several delegations and passed within a few feet of the Kosovars, no Serbia-Kosovo greetings were exchanged.

Kostunica: Tough, Legalistic Message

¶4. (SBU) Speaking in English, PM Kostunica told Council members that "the fate of my country is in your hands." He charged that independence for Kosovo without the agreement of Serbia "would be a violation of the UN charter" that would devalue the charter itself to the point where it would risk being ignored in the future, putting in jeopardy peace and stability around the world. He appealed for the Security Council to stand behind UNSCR 1244 rather than "retracting its words and disassembling Serbia." He claimed that the Ahtisaari plan "no longer exists" because "how could a plan rejected by the Security Council be the basis for valid resolution of the Kosovo question." He mocked those who call the Kosovo situation *sui generis*, asking "what comfort can there be in saying that the UN charter will be violated only once?" To those who suggest that two years of negotiations

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were enough, he said "when did two years become the statute of limitations on negotiations," and asked rhetorically whether negotiations on all conflicts that have lasted more than two years should now be considered concluded.

¶5. (SBU) Pre-emptively rejecting any Kosovo unilateral declaration of independence (UDI), Kostunica warned that Serbia would consider all agreements related to Kosovo to be void after a UDI and that Kosovo would then forever remain part of Serbia. He said Serbia "would continue respecting international law and would never recognize Kosovo" after a UDI. He expressed confidence that many UN members would follow suit and "consider Kosovo an illegally created puppet entity."

Sejdiu: First Appearance Before The UNSC

¶6. (SBU) Speaking in Albanian, Kosovo's President Sejdiu said Kosovo had been frustrated by the months of final status talks because Belgrade had insisted all along that only one outcome -- autonomy within Serbia -- was allowed under UNSCR ¶1244. He said that Kosovo was not seeking an ethnically based succession but the final chapter in the violent breakup of Yugoslavia that had introduced the world to the concept of ethnic cleansing. He emphasized that lack of political status was stunting Kosovo's development by chilling foreign investment and blocking access to international financial institutions. He praised UNMIK for allowing Kosovo time to build its institutions and praised the potential of the Ahtisaari proposal to stabilize the region. He assured the Council that Kosovo remains prepared to support and implement all aspects of the Ahtisaari proposal -- including its call for international presences and its far-reaching protections for minorities and cultural sites.

Slovakia Walks a Tightrope

¶7. (SBU) FM Kubis spoke for Slovakia, saying neither side had

yielded on sovereignty in the Troika talks and it is hard to imagine that more negotiations would lead to a different conclusion. Citing UNSCR as an adequate basis for launching the Ahtisaari vision of an EU rule of law mission, Kubis confirmed Slovakia will both participate in the mission and increase its presence in KFOR. He said Slovakia is convinced that the Kosovo status quo is not sustainable but is nonetheless concerned about a possible UDI. He urged the Security Council to remain seized with the issue.

Ambassador Khalilzad Challenges Russia to Show Statesmanship

¶18. (SBU) 12. (SBU) Ambassador Khalilzad set the issue of Kosovo's status in the context of a fifteen-year history of Balkan conflicts, saying that the ethnic cleansing of Milosevic had forever ensured that Kosovo could not return to rule by Belgrade. He stressed that the parties positions are irreconcilable, the status quo unsustainable and the Security Council deadlocked, leaving implementation of the Ahtisaari proposal as the only reasonable option left to the international community. Speaking directly across the Council's horseshoe table to the Russian delegation, Khalilzad said: "I would like to say to my friend Ambassador Churkin, we respect the position of Russia and wish we could have come to an agreement, but we have not. We call on you one last time to embrace the Ahtisaari proposal. We need statesmanship to move forward on our common goal of a stable and secure future for Europe."

¶19. (SBU) Ambassador Khalilzad also directly corrected PM Kostunica's claim that the Council had rejected the Ahtisaari proposal, saying "that proposal enjoyed broad support, including from the EU, NATO, the UN Secretary-general and, Mr. Kostunica, an overwhelming majority of Security Council members. It was not rejected by the Council." The Ambassador also called Serbia's December 10 opening of a government office in northern Kosovo a provocation and a violation of resolution 1244. He said "this office should be closed and no others should be opened." The Ambassador closed by assuring Council members that implementation of the Ahtisaari proposal would be consistent with international law and UNSCR in particular. (text of Amb. Khalilzad's statement is posted on USUN's website).

Other EU Members Support Ahtisaari

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¶10. (SBU) Belgian Permrep Verbeke said there is no common ground that would allow a negotiated solution. Referring to the prospect of continued negotiations, he said "there is no point in continuing to refer to an expedient in which no-one believes." UK Permrep Sawyers reminded Council members that the settlement of the Kosovo war had compelled Belgrade to accept the transfer of legal authority in Kosovo to the United Nations and that this historical fact convinces the UK that Kosovo is a sui generis case. Italy's D'Alema agreed that the potential for negotiations is exhausted because the positions of the parties are diametrically opposed, adding that the EU is ready to take on major responsibilities in Kosovo. French Permrep Ripert stated that he remained convinced there is no better solution for Kosovo than Ahtisaari's proposal.

Russia Shows No Flexibility

¶11. (SBU) Russia's Churkin asked sarcastically whether eight years as a UN protectorate legally qualified Kosovo for independence. He agreed that the status quo is unsustainable but quickly added "that doesn't mean the only way forward is imposition of the view of one party." He reminded Council members that several Security Council-endorsed documents, including the Guiding Principles of the Contact Group, had

called for a compromise solution for Kosovo. He noted the readiness of Belgrade to continue to negotiate and said the comments of several members clearly expressed concern about a non-negotiated solution. Churkin charged that in some cases involving "their own vital interests" the U.S. and European countries were prepared to allow conflicts "to go on for decades with thousands of deaths," and asked why Kosovo had to be resolved immediately. He charged that a UDI "would be a gross violation of UNSCR 1244," obliging the UN Secretariat to counter it. He told Council members that Kosovo is not unique and suggested a UDI could set off a dangerous chain reaction in any region in the world where there is separatism and religious conflict. As Secretariat staff distributed a Russian paper entitled "Key Elements for a Security Council Presidential Statement on Kosovo," Churkin said Russia was proposing what he called "a constructive alternative of continued negotiations guided by a roadmap based on 1244." (NOTE. Russia has not called for an experts' meeting on the draft text or otherwise activated its consideration by the Security Council. END NOTE.)

Remaining Council Members Show Too Much Flexibility

¶12. (SBU) Chinese Permrep Wang stated that the best solution is to help the parties find a mutually acceptable solution through compromise. He argued that "despite Kosovo's specific nature, any settlement will inevitably have repercussions on the international level." Wang said although there has not been a breakthrough, the potential for a solution is not exhausted. Peruvian Permrep Voto-Bernaies pointed to the unique history of Yugoslavia and the growing expectation for independence in Kosovo as factors that should be considered. "There are two deadlocks," he said, "one between the parties and one among countries in the Council. He said Peru supports "solutions taken by countries in the region where the problem in question is occurring." Panamanian Permrep Arias expressed concern about consequences for the region and the world of a non-negotiated solution. Indonesian PermRep Natalegawa said the Council should send a message that it is united to resolve Kosovo's final status and suggested the Council needs to make sure any decision it makes is in line with the UN charter and basic principles of international law and avoid making "perilous precedents." Qatar's Permrep Al-Nasser said both parties should offer realistic solutions and avoid violence. Ghana's PermRep Christian said we must encourage the parties to negotiate and encourage no provocative acts. South African Deputy Permrep Sangqu noted that the historical context of Kosovo was undeniable, but that was all the more reason that we needed a solution in line with international law. Congo's representative stated that the status quo cannot last but insisted that only a solution deriving from negotiations would not set a difficult precedent.

¶13. (SBU) No further Council sessions have been scheduled on the Troika report. The Council next considers Kosovo in the context of the regular quarterly UNMIK briefing on January 8.

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Khalilzad